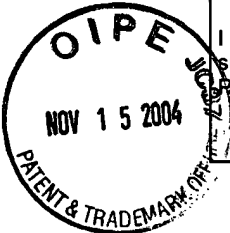


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CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: MS PETITION Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on the date below:	
NOV, 10, 2004 Date	Paula S. Linkhart Signature

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Lydie MEHEUS
Reinhard Georg LÜHRMANN
Ann UNION
Joseph RAYMACKERS

Confirmation No.: 3304

Group Art Unit: 1645

Examiner: ZEMAN, ROBERT A

Atty. Dkt. No.: 11362.0011.DVUS01

Serial No.: 10/056,407

Filed: January 24, 2002

For: Methylated, SmD Homologous Peptides,
Reactive with the Antibodies from Sera of
Living Beings Affected with Systemic
Lupus Erythematosus

**PETITION UNDER 37 C.F.R. § 1. 137(b) FOR REVIVAL
OF AN UNINTENTIONALLY ABANDONED PATENT APPLICATION**

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria VA, 22313-1450

Sir:

37 C.F.R. § 1. 137(b) REQUIREMENTS

In response to the Notice of Abandonment, dated October 6, 2004, and in accordance with 37 C.F.R. § 1. 137(b), Applicant hereby petitions for the revival of the captioned application as being unintentionally abandoned for failure to respond to a Restriction Requirement, dated December 3, 2003. As required by 37 C.F.R. § 1. 137(b)(1), enclosed herewith is a fully responsive reply to the December 3rd restriction requirement.

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The Commissioner is authorized to deduct the fee required \$1370.00 fee required under 37 C.F.R. § 1. 137(b)(2) from Deposit Account No. 01-2508/09101.0501.000000. However, for the reasons set out below, Applicant respectfully requests the refund of said fee once this petition is granted.

Finally, as required under 37 C.F.R. § 1. 137(b)(3) Applicant's undersigned representative states that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition, was unintentional. The circumstances causing the delay in replying to the Office letter are described below.

CIRCUMSTANCES SURROUNDING UNINTENTIONAL ABANDONMENT

Upon receipt of the December 3, 2003 restriction requirement, Applicant reviewed the substance thereof and determined that the restriction requirement was based on the original claims and did not take into account the Preliminary Amendment that was filed concomitantly with the instant divisional application (*i.e.* January 24, 2002). Accordingly, on December 11, 2003, the undersigned attorney contacted Examiner Robert Zeman by telephone and explained that the preliminary claim amendment was not addressed by the December 3, 2003 restriction requirement.

During the December 11th telephone call, Examiner Zeman indicated that although the preliminary amendment was not available at the time he prepared the December 3, 2003 restriction requirement, he had subsequently received it and it had been properly matched with the file before December 11, 2003. Examiner Zeman further indicated that he would prepare a new Office Action, taking into account the preliminary amendment. In accordance with this proposed course of action, Examiner Zeman indicated that he would vacate the December 3, 2003 restriction requirement, and reset the time-period for response based on the mailing date of

the new Office Action to be sent. Finally, Examiner Zeman advised the undersigned attorney that no further action was required with regard to the December 3, 2003 Office Action.

Having failed to receive a new Office Action, Applicant contacted Examiner Zeman by telephone on May 19, 2004, leaving a voice message requesting an update as to the status of the new Office Action. No response was received to this request.

Finally, upon receipt of the Notice of Abandonment (on or about October 15, 2004), Applicant once again contacted Examiner Zeman, to inquire why the captioned application was considered to be abandoned and to solicit his recommendation of the best course for resolving the abandonment issue. During this conversation Examiner Zeman indicated that it was his belief that the failure to void the December 3, 2003 Office Action and issue a new Office Action was likely due to the difficulties surrounding the Patent Office's transition to electronic formats for the files.

In view of these facts, the undersigned believes that it is readily apparent that the abandonment of the captioned application was unintentional. Therefore, Applicant respectfully requests revival of this application in accordance with the provisions of 37 C.F.R. § 1.137(b).

REFUND OF FEES

In view of the facts set out above, the undersigned believes that the lack of reply to the December 3, 2003 Office letter was due to a reasonable good-faith reliance on the instructions provided by Examiner Zeman during the December 11, 2003 telephone conference. Further, Applicant believes, as indicated by Examiner Zeman, that during the Patent Office's transition to electronic format the reminder's to Examiner Zeman to void the December 3, 2003 Office letter and issue a new one were somehow misplaced.

Applicant believes that the equities of the circumstances surrounding the unintentional abandonment of the captioned application favor Applicant's request for a refund of any fees charged to revive the application. Accordingly, Applicant requests that any fees initially charged during the review of this petition be refunded once the petition is granted.

Respectfully submitted,



Matthew L. Madsen
Reg. No. 45,594
Attorney for Assignee
INNOGENETICS N.V.

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Date: November 10, 2004